

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**CONSTELLIUM ROLLED
PRODUCTS RAVENSWOOD,
LLC,**

Petitioner/Cross-Respondent,

v.

**NATIONAL LABOR RELATIONS
BOARD,**

Respondent/Cross-Petitioner.

Nos. 18-1300, -1322

**PETITIONER/CROSS-RESPONDENT’S
STATEMENT OF ISSUES TO BE RAISED**

Pursuant to the Court’s November 9, 2018 Order, Petitioner/Cross-Respondent Constellium Rolled Products Ravenswood, LLC (“Constellium” or “Company”) hereby submits that the issues it intends to raise in this proceeding are as follows:

1. Whether the National Labor Relations Board (“NLRB” or the “Board”) erred, in a 2-1 decision, by reversing the Administrative Law Judge’s (“ALJ”) decision and holding that Constellium employee Jack Williams engaged in protected activity under the National Labor Relations Act (“NLRA” or the “Act”) when he defaced a Company bulletin board by writing “Whore Board” on two overtime sign-up sheets.

2. Whether the Board's decision erred by failing to acknowledge its precedent establishing a *per se* rule that defacement or vandalism of employer property is not inherently protected by Section 7 of the Act, even assuming the message content is otherwise protected.

3. Whether the Board's decision erred in effectively overruling precedent on defacement or vandalism of employer property without three Board members voting in the affirmative, as is the Board's established practice to change the law.

4. Whether the Board's decision erred by effectively holding that employees have a Section 7 right to use employer property, such as bulletin boards, to disseminate messages when Board precedent holds the opposite.

5. Whether the Board's decision erred in failing to accommodate federal and state Equal Employment Opportunity laws and public policy that require employers to eliminate workplace harassment, such as Title VII of the Civil Rights Act, by deeming "Whore Board" a protected phrase under the NLRA even when an employee posted the phrase on a Company bulletin board in a working area.

Constellium reserves the right to amend, add, or delete issues as appropriate.

Dated: December 7, 2018

Respectfully submitted,

/s/ David R. Broderdorf

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CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2018, I electronically served and filed the foregoing Petitioner/Cross-Respondent's Statement of Issues to be Raised with the Clerk of the Court by using the appellate CM/ECF system. I also hereby certify that the following participants in the case are registered CM/ECF users and will be served via the CM/ECF system:

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